

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiffs,

-against-

KENNETH MCGRIFF

Defendant.

MEMORANDUM AND ORDER
Case No. 04-CR-00966-2 (FB)

Appearances:

For the Plaintiff:

BREON PEACE
ANNA L. KARAMIGIOS
271 Cadman Plaza East
Brooklyn, NY 11201

For the Defendant:

MICHAEL K. BACHRACH
Michael K. Bachrach, ESQ.
224 West 30th Street, Suite 302
New York, NY 10001

BLOCK, Senior District Judge:

I write in response to the Second Circuit's "remand to the District Court to explain the 'impact' of the reduced statutory maximum on its decision, and, if it did not previously consider the 40-year reduced maximum, to reconsider McGriff's motion for a reduced sentence in light of that maximum." *United States v. McGriff*, No. 20-3157-CR, 2022 WL 893731, at *2 (2d Cir. Mar. 28, 2022) (summary order). The Court assumes familiarity with its original order.

The Court explicitly acknowledges that Section 2 and 3 of the Fair Sentencing Act, made retroactive by Section 404(b) of the First Step Act, amended 21 U.S.C. § 841(b)(1) to lower the mandatory maximum for count fourteen to 40-

years. *See id.* at *1. Thus, the Court exercises its discretion to reduce Defendants' sentence on that count to 40-years. *See United States v. Moore*, 975 F.3d 84, 91–92 (2d Cir. 2020). Nothing herein will preclude the Defendant from subsequently filing compassionate release motions. *See* Def.'s Letter 3, ECF No. 975. Accordingly, Defendant's motion is granted and the sentence on count fourteen is reduced to 40-years.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
December 2, 2024